IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5707 of 1999
with
SPECIAL CIVIL APPLICATION No 1731 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

S O TURI

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 5707 of 1999
MR AS SUPEHIA for Petitioner No. 1
MR AMIT M PANCHAL for Respondent No. 1

2. Special Civil Application No. 1731 of 1996
MR IS SUPEHIA for Petitioner No. 1
MR ARCHANA RAVAL, AGP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 16/10/2003

COMMON ORAL JUDGEMENT

Heard learned advocate Mr. A.S.Supehia for

petitioners and learned AGP Ms. Archana Raval for the respondent State of Gujarat.

2. The grievance of the present petitioners is that before imposing the penalty against the petitioners no procedure was followed by the respondents and that is how impugned order has been challenged in both the petitions. Learned advocate Mr. A.S.Supehia has brought to the notice of this Court that there is a recommendation by a Committee known as Panchayat Raj Committee of the Revenue Department dated 18.3.1999 to the effect that, without following the procedure and without any final determination on the basis of evidence, the punishment order has been passed to recover the amount from the petitioners, therefore, it is not proper to recover the amount from the petitioners belonging to Class IV category and, therefore this recovery must have to be stopped and to refund to such recovery to the petitioners. Learned advocate Mr. Supehia has submitted that the said recommendation of the Committee dated 18.3.1999 of Revenue department is not taken into account by the respondent till date and matter has not been reconsidered on the basis of the report of the committee. Therefore, he submitted that if suitable direction is issued to the respondent to reconsider the matter in light of the report of the said Committee within some reasonable time, then these matters can be put to an end.

3. Learned AGP Ms. Archana Raval appearing on behalf of the respondent State has submitted that respondent will reconsider the matter in light of the said Committee report and will pass appropriate orders in accordance with law within some reasonable time.

4. I have considered the submissions made by both the learned advocates and considering the fact that when Committee report itself suggest that the punishment order of recovery is passed by the respondent without following the proper procedure and being a Class-IV employee, such recovery has been considered not proper by the Committee and the recovery is required to be refunded to the petitioners, therefore, according to my opinion respondent authority will reconsider the matter in light of the Committee report as referred above and will pass appropriate orders within some reasonable period which will meet the ends of justice between the parties.

5. Accordingly, it is directed to the respondents to reconsider the case of both the petitioners about penalty of recovering the amount in light of the Committee report dated 18.3.1999 and pass reasoned order in accordance

with law within a period of two months from the date of receiving the copy of this order.

6. In view of the above observations and directions present petitions are disposed of. However, it is made clear that this Court has not expressed any opinion on merits. It is further made clear that in case any adverse orders will be passed by the respondent then it is open for the petitioners to challenge the same before the appropriate forum in accordance with law. Rule is discharged. Interim relief, if any, stands vacated.

(H.K.Rathod,J)

Jayanti*